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#3

ATTORNEY DOCKET NO.

PATENT
00122/003001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Lincoln Evans- Art Unit: Not yet assigned
Beauchamp and
Jeremy Link

Serial No.: 09/908,984 Examiner: Not yet assigned

Filed: July 18, 2001

Title: Decision Engine and Method and Applications Thereof

Commissioner for Patents

Box: Petitions

Washington, D.C. 20231

PETITION UNDER 37 C.F.R. §1.47(a) IN
RESPONSE TO NOTICE TO FILE MISSING PARTS

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Sir:

Petitioner Jeremy Link ["Link"] through his undersigned attorney is filing the attached Declaration under 37 C.F.R. §1.47(a) in response to the Notice to File Missing Parts mailed August 29, 2001, due on October 29, 2001, and extended to December 31, 2001. Petitioner is also filing various other papers to complete the Application, including the required fees: filing fee, extension fee, surcharge fee, and petition fee.

The attached executed Declaration is signed by Link, who is making the Application on behalf of himself and a non-signing inventor, Lincoln Evans-Beauchamp ["Evans"]. As explained below and in the accompanying Declaration, Evans refuses to sign a Declaration and join in this Application as required under 37 C.F.R. §1.63, despite his acknowledging receipt of a copy of the Application. See also Declaration of Mark D. Wieczorek ("Wieczorek Declaration"), filed herewith, at ¶14.

A petition under 37 C.F.R. §1.47(a) (See also MPEP §409.03(a)) requires:

- **Proof of the pertinent facts.** MPEP §409.03(a)(B)(2) §409.03(d).
- **The fee set forth in §1.17(h).**
- **The last known address of the non-signing inventor.** MPEP §409.03(a)(C).
- **A Declaration in compliance with 37 CFR §1.63** in which all available joint inventors make the Declaration or Oath on their own behalf and on behalf of the non-signing inventor. MPEP §409.03(a)(A).

The MPEP also states various other requirements to more particularly show the above proof of the pertinent facts (MPEP §409.03(a) and (d)):

- **Proof that the entire application was sent or given to the non-signing inventor for review.** MPEP §409.03(d).
- **Any reasons given by the non-signing inventor for the same's refusal to sign.** Id.

In accordance with the above, the following items are provided to meet the requirements of the petition:

Requirement	Action Taken to Fulfill Requirement
Proof of the pertinent facts.	The proof of the pertinent facts is set forth in the Summary of Evidence below and in the accompanying <i>Wieczorek Declaration</i> .
The fee set forth in §1.17(h).	Filed Herewith.
The last known address of the non-signing inventor.	Lincoln T. Evans-Beauchamp 116 Colorado Avenue Palo Alto, CA 94301
A Declaration in compliance with 37 CFR § 1.63.	Filed Herewith.
Proof that the entire application was sent or given to the non-signing inventor for review (MPEP §409.03(d)).	A copy of the entire application was sent to the non-signing inventor for review. See <i>Wieczorek Declaration</i> at ¶4. Evans acknowledged receipt of these items in a telephone conference with <i>Wieczorek</i> on October 18, 2001. <i>Id.</i> at ¶5.
Reasons given for refusal to sign.	The reasons given for the refusal to sign are set forth in the Summary of Evidence below and in the accompanying <i>Wieczorek Declaration</i> .

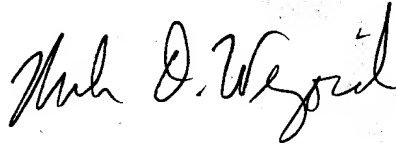
Thus, as all the requirements for the Petition under 37 CFR 1.47(a) have been fulfilled, Petitioner requests that the Application now be considered complete, and that the Application be passed to Examination without further delay.

If a teleconference would aid in the resolution of this Petition, please contact the undersigned.

A credit card authorization form has been submitted herewith authorizing the PTO to charge the petition fee of \$130.00. If any additional fees are due (or should the form become lost or held to be defective), the Office is hereby authorized to charge the necessary fees to Deposit Account 50-1187.

Respectfully submitted,

Dec. 31, 2001



Mark D. Wieczorek
Registration No. 37,966

P.O. Box 70072
San Diego, California 92167
Tel: (619) 223-7210

Attorney Docket 00122/003001

DETAILED SUMMARY OF EVIDENCE

1. This application was filed on July 18, 2001, without a signed oath or declaration.
2. The attorney for Petitioner ("Wieczorek") received a Notice to File Missing Parts having a mailing date of August 29, 2001.
3. Between August 29, 2001 and October 15, 2001, Wieczorek and engineers at Inferscape, Inc. ("Inferscape"), the company Wieczorek represents and to which Evans had agreed to assign the invention, more fully investigated the inventorship of the patent application.
4. On October 15, 2001, Wieczorek forwarded a copy of the filed version of the patent application to Mr. Evans-Beauchamp ("Evans") via U.S.P.S. Express Mail.¹ Along with the filed copy of the application, Wieczorek forwarded a Declaration² for the case, as well as an Assignment to Inferscape. *See Wieczorek Declaration at ¶4.*
5. At this point, on October 18, 2001, a series of telephone calls and emails began between Wieczorek and Evans which continues to this day; Evans' ultimate purpose of which is clearly to refuse to join in the application and to frustrate its prosecution as summarized below.
6. Numerous emails and telephone communications with Evans are recounted in the Wieczorek Declaration. For example, on October 30, 2001, Evans recited his opinion on the status of the inventorship vis-a-viz the pending claims in an email to Wieczorek; to wit, "The claims only include

¹ Evans had left full-time Inferscape employment on December 15, 2000. As noted in the Wieczorek Declaration, Evans has acknowledged receipt of this application.

² The Declaration Wieczorek forwarded listed four inventors: Evans, Edward Zanelli, Link, and Richard Zanelli. It was later determined that for the claims in question, only Evans and Link should be named as inventors.

material invented mostly by Jeremy [Link], "The Zanelli's" [sic - Richard and Edward], and myself." Id. at ¶12.

7. On November 10, 2001, Evans sent another email to Wieczorek stating that he was refusing to sign the Declaration, alleging the following purportedly non-exclusive grounds:
 - Richard and Edward Zanelli were allegedly not inventors;
 - Others who were inventors were allegedly omitted;
 - Evans had allegedly not been fully paid for his work with respect to the intellectual property; and
 - Evans allegedly has not been paid for his time working with Wieczorek on this patent.Id. at ¶14.
8. Wieczorek emailed Evans again on November 19, 2001, reporting that after discussions with Inferscape engineers, and upon the filing of various preliminary amendments, the inventorship of the remaining claims would properly rest in Evans and Jeremy Link. Id. at ¶17.
9. On December 13 and 17, 2001, Wieczorek filed preliminary amendments implementing the proposed amendment above as well as other refinements. Id. at ¶23. Also on December 17, 2001, Wieczorek presented both preliminary amendments to Evans along with a revised Declaration. Id. Wieczorek gave Evans two weeks to respond with a signed Declaration.
10. On December 23, 2001, Evans replied, not with a signed Declaration, but with an invoice for \$6000 for past work on the patent and an estimate of \$7500 for future work, which presumably would enable him to then sign the Declaration. Id. at ¶24.
11. As noted above, Petitioner has not recounted every email and telephone communication that has occurred between Evans and Wieczorek. In these, Evans has given numerous excuses for his non-signing. These excuses have changed over the

course of the correspondence, and have increased in creativity. Petitioner will attempt to summarize the excuses here, as required by MPEP § 409.03(d). Petitioners also summarize their reply where applicable:

Excuse	Reply
Inventorship Issues - Evans questions the inventorship of the Application.	Applicants have reviewed and investigated inventorship, have filed preliminary amendments to revise claims, and have revised the inventorship accordingly.
Payment Issues - Evans believes he is due additional monies for reviewing the patent application and executing the Declaration.	Applicants have investigated the issues raised by Evans with respect to payment and have concluded that such payment has already been made; in any event, they do not affect the inventorship of the patent application.
Prior Invention Issues - Evans states that the claims may not be novel, in contradiction to his prior statements.	Applicants have reviewed and investigated the subject matter claimed and have filed preliminary amendments to revise the claims. While Applicants believe the claims were patentable as filed, they have made such amendments to even more fully clarify the subject matter claimed.

12. Applicants note that Evans has also given several other excuses for his refusal to sign the Declaration. These excuses are believed to either (1) have been addressed by Applicants already; (2) result from a misunderstanding of patent law; or (3) are irrelevant to the execution of a Declaration. In the case of Evans' lawyer, the same has been given ample opportunity to review the Declaration and Application: any excuse based on this can only be concluded to be a stalling effort.

- Certain claims do not "make sense".
- Certain disclosure, but not claims, have incorrect "inventorship" [sic].
- Evans' lawyer has to look at the Declaration.
- Evans' concern that "How can I ensure that my signature remains valid in later revs [sic] of the patent and its claims given that the information in the description can support claims that would invalidate my signature?". (emphasis added) Petitioners are unable to parse this question so as to summarize or respond to it.

13. These after-the-fact excuses cannot make up for Evans' repeated prior statements of invention, both before and after he left the employ of Applicants'. Applicants, simply put, have gone to great lengths to ensure that the application and claims are appropriate for Evans' signature on the Declaration. They have offered to make every

concession, where possible, requested by Evans.

Nevertheless, Evans repeatedly attempts to find new grounds on which to refuse to sign the Declaration. Evans even appears to have resorted to a variety of extortion based on Applicants' attempts to secure his signature. Based on these facts, Applicants can only conclude that Evans is constructively refusing to sign the Declaration and join in the application.



PATENT

ATTORNEY DOCKET NO. 00122/003001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Lincoln Evans- Art Unit: Not yet
 Beauchamp and assigned
 Jeremy Link

Serial No.: 09/908,984 Examiner: Not yet
 assigned

Filed: July 18, 2001

Title: Decision Engine and Method and Applications
 Thereof

Commissioner for Patents
Washington, D.C. 20231

**DECLARATION OF MARK D. WIECZOREK
TO SUPPORT PETITION UNDER 37 C.F.R. 1.47(a)**

I, Mark D. Wieczorek, declare as follows:

1. I am the attorney handling the above patent application.
2. The above patent application was filed on July 18, 2001.
3. I received a Notice to File Missing Parts with a mailing date of August 29, 2001, in early September 2001.
4. Between August 29, 2001 and October 15, 2001, I along with engineers at Inferscape, Inc., my client, investigated more fully the inventorship of the above patent application.
5. On October 15, 2001, I sent a copy of the application and formal papers via US Postal Service Express Mail Service to Lincoln Evans-Beauchamp ("Evans") at 116 Colorado Avenue, Palo Alto, CA 94301. In the cover

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letter I asked Evans to sign the Declaration. See Exhibit A.

6. On October 18, 2001, I had a telephone conversation with Evans in which he informed me that he had received the Express Mail package containing the application. During that same conversation, Evans asked me about the manner in which inventorship was determined. I responded to this question, apparently to Evans's satisfaction. Evans finished by saying he may have some "changes and revisions" to the application. See Exhibit B.
7. In a telephone conversation on October 22, 2001, Evans told me that, in claims pertaining to neural networks, purportedly "claims 20-23", another inventor should in addition be named. Further, he stated that claims 2-5, 15, and 16 did "not make sense". I offered to amend the claims in question or to cancel these claims, and asked for direction in amending from Evans. He did not provide this information. Later, when I examined the claims more closely, no claims pertaining to neural networks were apparent.
8. The next communication was on October 24, 2001, at which point I presented Evans with a proposed preliminary amendment that would cancel the claims in question, i.e., those that purportedly "did not make sense". I again asked Evans to sign the Declaration. Exhibit C.
9. The next communication occurred on the same day, when Evans wrote me an email. Exhibit D. The email did not address the points raised in my email, but rather jumped to the issue of the specification and how it may disclose embodiments not currently claimed. Id. Evans asked me about adding inventors to these other "sections", or otherwise deleting these sections. Id.
10. I responded to Evans the next morning, replying to his questions, and for the third time asking him to sign the Declaration. Exhibit E at page 1.
11. Evans responded on the following day, expressing concerns such as "How can I ensure that my signature remains valid in later revs [sic] of the patent and its claims given that the information in the

description can support claims that would invalidate my signature?" and the like. Exhibit F at page 1.

12. I responded to Evans's concerns on October 29, 2001. Exhibit G at page 1. I further suggested that Evans put me in contact with Evans's patent attorney, a person to whom Evans had previously alluded but whose identity had never been disclosed. Id.
13. On October 30, 2001, Evans stated in an email to me that he had not had a chance to fully discuss the issue with his attorney yet. Exhibit H at page 1. He further stated that "The claims only include material invented mostly by Jeremy [Link], "The Zanelli's", and myself." Id. He did not state any other potential contributors to the claimed subject matter, despite the clear opportunity to do so. He then again raised an issue of later claims potentially claiming matter invented by others. Id.
14. I responded the next day, stating that if later claims are filed on or added which claims disclosure others invented, I will note the appropriate inventorship in the Patent Office. Exhibit I at page 1. I again asked Evans to put me in contact with Evans' purported IP attorney, so that agreement could be reached with regard to the Declaration. Id.
15. On November 10, 2001, Evans sent another email to me stating that he was refusing to sign the Declaration, alleging the following non-exclusive grounds: Richard and Edward Zanelli were not inventors; others who were inventors were omitted; he had not been fully paid for his work with respect to the intellectual property; and he had not been paid for his time working with me on this patent. Exhibit J.
16. I responded to Evans's email on November 12, 2001, attempting to clarify the issues Evans raised. Exhibit K at page 1.
17. Evans responded on November 17, 2001, stating that he was busy and that he would respond soon. Exhibit L at page 1.

18. I emailed Evans again on November 19, 2001, reporting that after discussions with Inferscape engineers, the inventorship of the remaining claims was determined to properly rest in Evans and Jeremy Link. Exhibit M at page 1.
19. On November 20, 2001, Evans responded, alluding to certain acts of inventorship allegedly performed when he worked at a prior company. Exhibit N at page 1.
20. On November 30, 2001, Evans emailed me again, asking a question, for the second time, about which claims are "still in effect". Exhibit O at page 1.
21. I replied on December 2, 2001, stating that no claims had yet been cancelled. Exhibit P at page 1.
22. On December 9, 2001, I emailed Evans a revised Declaration, this Declaration naming only Evans and Jeremy Link as inventors. Exhibit Q at page 1. I asked via separate email if other inventors should be named. Exhibit R at page 1.
23. On December 13, 2001, I filed a preliminary amendment to cancel the claim as I had proposed to Evans. On December 17, I filed another preliminary amendment to even more fully clarify the subject matter of the claims. I sent copies of both preliminary amendments to Evans, as well as a revised Declaration. Exhibit S. I stated that Evans had until December 31, 2001, to reply with a signed Declaration, or else I would have to conclude that he was refusing to sign the Declaration. To date I have had no response in this regard.
24. On December 23, 2001, Evans sent me a "carbon copy" of an email he had sent to Edward Zanelli, enclosing an invoice for \$73,740 allegedly owed to him, \$13,500 of which was for past and future work on the patent application. Exhibit T.
25. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so

made are punishable by fine or imprisonment, or both,
under Section 1001 of Title 18 of the United States Code
and that such willful, false statements may jeopardize
the validity of the application or any patent issuing
thereon.

Mark D. Wiczorek
MARK D. WIECZOREK

Dec 31, 2001
DATE

A

Mark D. Wieczorek, Ph.D., Esq.
PO Box 70072
San Diego, CA 92167
(562) 244-5671 phone : (866) 697-5889 fax
markw31415@aol.com email
Attorney-At-Law

October 15, 2001

ATTORNEY CLIENT PRIVILEGED
CONFIDENTIAL

VIA EXPRESS MAIL
Lincoln Evans-Beauchamp
116 Colorado Avenue
Palo Alto, CA 94301

RE: PATENT APPLICATION: "DECISION ENGINE" INVENTION
Serial No. 09/908,984
Filing Date: 7/18/01
My Ref. No.: 00122/003001

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**OFFICE OF PETITIONS
DEPUTY A/C PATENTS**

Dear Lincoln:

I hope this letter finds you well. Pursuant to your agreement with Inferscape of June 16, 2000, please find enclosed the formal documents to be signed, and in particular the Declaration and Power of Attorney, and the Assignment. Please sign and date these, and in addition have the Assignment notarized. You should only sign the Declaration and Power of Attorney after you have read the filed version of the patent application (enclosed). This is very important so I'll repeat it. **You should only sign the Declaration and Power of Attorney after you have read the filed version of the patent application.** You may fax the Declaration and Power of Attorney back to me, but send the original to me by mail at the address above. In any case, please return these by October 29, 2001, as that is the due date for response. Extensions of time are available from the Patent Office at additional expense. However, I would like to have your signed papers by October 29, 2001, in any case. Please let me know if there will be any difficulty in meeting this deadline.

Also, I will remind you here of something that is very important. During the prosecution of the application in the Patent Office, we each have a continuing duty to disclose to the Patent Office all the relevant prior art of which we are aware. That is, if you know of any publications, patents, etc., that may be relevant to the patentability of the invention, we have to disclose the same to the Patent Office. We have already discussed some patents that may be pertinent: I will file these promptly.

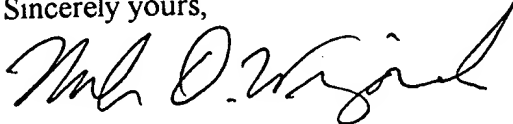
Member, California State Bar – Registered Patent Attorney

ATTORNEY-CLIENT PRIVILEGED - 2 -
CONFIDENTIAL

October 15, 2001

Thanks again, and please let me know if you have any questions.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Mark D. Wiczorek". The signature is fluid and cursive, with the first name "Mark" being more prominent.

Mark D. Wiczorek, Ph.D., Esq.

CC: Edward J. Zanelli, President/CEO, Inferscape, Inc. (by first class mail, w/o enclosures)

Docket No.
00122/003001

Declaration and Power of Attorney For Patent Application

English Language Declaration

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled
DECISION ENGINE AND METHOD AND APPLICATIONS THEREOF

the specification of which

(check one)

☐ is attached hereto.

☒ was filed on July 18, 2001 as United States Application No. or PCT International

Application Number 09/908,984

and was amended on _____

(if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or Section 365(b) of any foreign application(s) for patent or inventor's certificate, or Section 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate or PCT International application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

Priority Not Claimed

(Number)

(Country)

(Day/Month/Year Filed)

☐

(Number)

(Country)

(Day/Month/Year Filed)

☐

(Number)

(Country)

(Day/Month/Year Filed)

☐

I hereby claim the benefit under 35 U.S.C. Section 119(e) of any United States provisional application(s) listed below:

July 18, 2000

(Filing Date)

(Filing Date)

(Filing Date)

I hereby claim the benefit under 35 U. S. C. Section 120 of any United States application(s), or Section 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. Section 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, C. F. R., Section 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application:

(Filing Date)

(Status)

(Filing Date)

(Status)

(Filing Date)

(Status)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. *(list name and registration number)*

Mark D. Wieczorek, Reg. No. 37,966

Send Correspondence to: **Mark D. Wieczorek**
P.O. Box 70072
San Diego, CA 92167

Direct Telephone Calls to: *(name and telephone number)*
Mark D. Wieczorek:(619) 223-7210

Full name of sole or first inventor Lincoln T. Evans-Beauchamp	
Sole or first inventor's signature	Date
Residence 116 Colorado Avenue, Palo Alto, CA 94301	
Citizenship U.S.	
Post Office Address 116 Colorado Avenue, Palo Alto, CA 94301	

Full name of second inventor, if any Edward J. Zanelli	
Second inventor's signature	Date
Residence 25 McAker Court, #112, San Mateo, CA 94403	
Citizenship U.S.	
Post Office Address 25 McAker Court, #112, San Mateo, CA 94403	

Full name of third inventor, if any Jeremy Link	
Third inventor's signature	Date
Residence 935 Holly Road, Belmont, CA 94002	
Citizenship U.S.	
Post Office Address 935 Holly Road, Belmont, CA 94002	

Full name of fourth inventor, if any Richard L. Zanelli	
Fourth inventor's signature	Date
Residence 8902 Pinehurst Cir., Westminster, CA 92683	
Citizenship U.S.	
Post Office Address 8902 Pinehurst Cir., Westminster, CA 92683	

Full name of fifth inventor, if any	
Fifth inventor's signature	Date
Residence	
Citizenship	
Post Office Address	

Full name of sixth inventor, if any	
Sixth inventor's signature	Date
Residence	
Citizenship	
Post Office Address	

ASSIGNMENT

WHEREAS, We, Lincoln T. Evans-Beauchamp, a citizen of the United States of America, having place of residence at 116 Colorado Avenue, Palo Alto, CA 94301, Edward J. Zanelli, a citizen of the United States of America, having place of residence at 25 McAker Court, #112, San Mateo, CA 94403, Jeremy Link, a citizen of the United States of America, having place of residence at 935 Holly Road, Belmont, CA 94002, and Richard L. Zanelli, a citizen of the United States of America, having place of residence at 8902 Pinehurst Cir., Westminster, CA 92683; hereafter referred to as "applicants", have invented certain new and useful improvements in: **DECISION ENGINE AND METHOD AND APPLICATIONS THEREOF** for which an application for a United States Patent was filed on July 18, 2001, application serial number 09/908,984, and

WHEREAS, Inferscape, Inc., a California corporation having an office at 25 McAker Court, #112, San Mateo, CA 94403 (herein referred to as "assignee", which term includes the successors and assigns of assignee), is desirous of acquiring the entire right, title, and interest in and to said invention and in and to said letters patent or similar legal protection to be obtained therefore in the United States and in any and all foreign countries.

NOW, THEREFORE, in consideration of the sum of one dollar (\$1.00), the receipt whereof is acknowledged, and other good and valuable consideration, we, the applicants, by these presents do sell, assign and transfer unto said assignee the full and exclusive right to the said invention *including any and all divisionals, continuations, continuations-in-part, reissues, and reexaminations thereof* in the United States and in any and all foreign countries and the entire right, title, and interest in and to any and all Patents which may be granted therefore in the United States and in any and all foreign countries.

WE HEREBY authorize and request the Commissioner of Patents to issue said United States Patent to said assignee, of the entire right, title, and interest in and to the same, for its

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sole use and behoof; and for the use and behoof of its legal representatives, to the full end of the term for which said Patent may be granted, as fully and entirely as the same would have been held by us had this assignment and sale not been made.

Executed this _____ day of _____, 2001, at _____, City

Lincoln T. Evans-Beauchamp

Executed this _____ day of _____, 2001, at _____, City

Edward J. Zanelli

Executed this _____ day of _____, 2001, at _____, City

Jeremy Link

Executed this _____ day of _____, 2001, at _____, City

Richard L. Zanelli

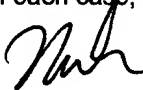
Memo

Date: 10/18/2001
To: file
Cc: Edward J. Zanelli, President/CEO, Inferscape
From: Mark D. Wieczorek
RE: Telecon with Lincoln Evans-Beauchamp
Priority: [Urgent]

Per my telephone conversation with Lincoln Evans-Beauchamp of October 18, 2001, at approximately 1:20 pm this afternoon, he said that he had received the materials I sent him and that he intended to sign the Declaration.

He also said that he may have some changes and revisions for me.

He also asked several questions relating to the definition of prior art, and his requirement regarding the Duty of Disclosure. Another of his questions included how the determination of inventorship was made. In each case, I provided to him, apparently to his satisfaction, the requested information.



Mark D. Wieczorek, PH.D. Esq.

MDW

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Subj: **preliminary amendment**
Date: 10/24/2001 5:20:21 PM Pacific Standard Time
From: MarkW31415
To: tashlinc@yahoo.com
CC: MarkW31415
File: **00122-003001 preliminary amendment.doc** (30720 bytes) DL Time (32000 bps): < 1 minute

Lincoln,

Please find attached the file of the "preliminary amendment" I will file with the response to the "notice to file missing parts".

I assume this puts all the claims in suitable condition, as we discussed.

Please let me know if there still exist any impediments to your now signing and dating the declaration and faxing the same back to me at (866) 697-5889. Of course, please read the application and declaration as required and as we have discussed before, and so that you understand what is disclosed therein, prior to your signing the declaration.

Thanks very much,

Mark Wieczorek
cell # 562-244-5671

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PATENT

ATTORNEY DOCKET NO. 00122/003001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Lincoln Evans-Beauchamp et al.	Art Unit:	Not yet assigned
Serial No.:	09/908,984	Examiner:	Not yet assigned
Filed:	July 18, 2001		
Title:	Decision Engine and Method and Applications Thereof		

Commissioner for Patents
Washington, D.C. 20231

Preliminary Amendment

In the Claims:

Please cancel the following claims: 2-5, 15, 16, and 20-23.

REMARKS

Applicants are filing this preliminary amendment to place the application more rapidly in condition for allowance. Applicants believe all the pending claims to be in such condition, and a Notice of Allowance is respectfully requested.

If the Examiner would like to discuss the application in more detail, or feels a teleconference would advance prosecution of the same, she is requested to call the undersigned at (562) 244-5671.

Please charge any additional fees, or any credits, to Deposit Account No.
50-1187.

Sincerely,

Mark D. Wieczorek, Ph.D., Esq.
Reg. No. 37,966
Attorney for Applicants
Law Offices of Mark D. Wieczorek, Ph.D., Esq.
P.O. Box 70072
San Diego, CA 92167
(562) 244-5671 phone
(866) 697-5889
markw31415@aol.com email

Date

Subj: **RE: preliminary amendment**
 Date: 10/24/2001 11:36:34 PM Pacific Standard Time
 From: tashlinc@yahoo.com
 To: MarkW31415@aol.com
 Sent from the Internet (Details)

Mark,

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Lincoln

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> Sent: Wednesday, October 24, 2001 6:20 PM

> To: tashlinc@yahoo.com

> Cc: MarkW31415@aol.com

> Subject: preliminary amendment

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> Mark Wieczorek

> cell # 562-244-5671

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Date:	10/25/2001 9:20:34 AM Pacific Standard Time
From:	MarkW31415
To:	tashlinc@yahoo.com
CC:	MarkW31415

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Do You Yahoo!?

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Subj: **RE: preliminary amendment**
Date: 10/26/2001 8:21:00 AM Pacific Standard Time
From: tashlinc@yahoo.com
To: MarkW31415@aol.com
Sent from the Internet (Details)

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CC:	<u>MarkW31415</u>

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Subj: **RE: preliminary amendment**
Date: 10/30/2001 10:57:11 AM Pacific Standard Time
From: lincoln_evans-beauchamps@mail.northgrum.com
To: MarkW31415@aol.com
Sent from the Internet (Details)

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Sent: Monday, October 29, 2001 11:29 AM

To: tashlinc@yahoo.com

Cc: MarkW31415@aol.com

Subject: Re: preliminary amendment

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From: MarkW31415
To: lincoln_evans-beauchamps@mail.northgrum.com, tashlinc@yahoo.com
CC: MarkW31415

Lincoln,

You did not understand me entirely correctly. If claims are added later, in this or a later application, to cover subject matter invented by Omar or Shubber, then the inventorship would have to be amended accordingly, according to the Patent Office rules. Infrascap has no incentive to misname the inventorship, as the same could be used later in litigation against the company. So if someone is an inventor of the subject matter of the claims pending, then they will be named. As I understand it, with the claims cancelled as will be done, and as according to your direction, the inventorship is correct. Thus, the papers can be signed.

Incidentally, this is the first I have heard of Shubber being a purported inventor. What part of this did he invent?

In any case, I have no interest in debating patent law with you. Moreover, it is perhaps not appropriate if you are represented by counsel. For that reason, I urge you to put me in contact with this IP lawyer you speak of. I am sure that he and I can come to a quick understanding of what needs to be done. In my experience, this Declaration-signing issue is a very easy one, and I am confident we can reach agreement quickly.

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Subject: Re: preliminary amendment

Lincoln,

I apologize, but either I misspoke or you misheard. The claims as filed do have weight, but they can also be amended. Of course, amending claims is generally not a good thing, especially under recent case law, but it is allowed so long as what is being amended is supported in the description.

Regarding inventorship, there is no real concept of 'inventorship' of the description. When we speak of an inventor, we speak of an inventor of the claimed invention. So it is the inventor of the claims that matter. To the extent we claim, in later applications, those parts of the invention invented by others, then we will name them as inventors.

As far as changes to the body section of the application, that is very difficult to do at this stage due to the prohibition against adding new matter. We can of course change small typos, etc. We could delete large sections but, assuming the application eventually issues as a patent, the initially-filed description, with the deleted sections still in it, would be part of the public record.

Regarding your lawyer looking at it, I have no problem with that. I'll pass it by the Innerscape people but I'll tell them that I have no problem with it. Assumedly you have an attorney/client relationship with this person? Note however that what I have asked you to sign is the suggested form, downloadable from the uspto.gov (Patent Office) website, and is assumedly OK by them.

Please let me know if you have any other questions. Will we have your signature on the document by say, end of business today so that I can file the document tomorrow?

Thanks,

Mark Wieczorek

In a message dated 10/25/2001 12:36:34 AM Pacific Daylight Time, tashlinc@yahoo.com writes:

Subj:RE: preliminary amendment
Date:10/25/2001 12:36:34 AM Pacific Daylight Time
From:tashlinc@yahoo.com
To:MarkW31415@aol.com
Sent from the Internet

Mark,

You stated that the actual claims do not matter for right now as those will be determined later.

This statement makes me think that the body of the patent application must have weight.

Are any changes required of the body section of the patent application such that it complies with the signatures that you have asked? There are sections in the body that require other inventors to be added? do they need to be deleted?

My IP lawyer says that I shouldn't sign until he has looked at it. Do I have to get permission to show it to him?

Lincoln

> -----Original Message-----
> From: MarkW31415@aol.com [mailto:MarkW31415@aol.com]
> Sent: Wednesday, October 24, 2001 6:20 PM
> To: tashlinc@yahoo.com
> Cc: MarkW31415@aol.com
> Subject: preliminary amendment

>
 >
 > Lincoln,
 >
 > Please find attached the file of the "preliminary amendment" I
 > will file with
 > the response to the "notice to file missing parts".
 >
 > I assume this puts all the claims in suitable condition, as we discussed.
 >
 > Please let me know if there still exist any impediments to your
 > now signing
 > and dating the declaration and faxing the same back to me at
 > (866) 697-5889.
 > Of course, please read the application and declaration as
 > required and as we
 > have discussed before, and so that you understand what is
 > disclosed therein,
 > prior to your signing the declaration.
 >
 > Thanks very much,
 >
 > Mark Wieczorek
 > cell # 562-244-5671
 >

----- Headers -----

Return-Path: <lincoln_evans-beauchamps@mail.northgrum.com>
 Received: from rly-st05.mail.aol.com (rly-st05.mail.aol.com [172.31.34.4]) by air-
 b05.mail.aol.com (v81.9) with ESMTP id MAILINXB54-1030135711; Tue, 30 Oct
 2001 13:57:11 -0400
 Received: from rly-yc01.mx.aol.com (rly-yc01.mail.aol.com [172.18.149.33])
 by rly-st05.mail.aol.com (8.8.8/8.8.8/AOL-5.0.0)
 with ESMTP id NAA06580 for <markw31415@aol.com>;
 Tue, 30 Oct 2001 13:50:19 -0500 (EST)
 Received: from sundown.northgrum.com (sundown.northgrum.com

[157.127.124.203]) by rly-yc01.mx.aol.com (v81.9) with ESMTP id MAILRELAYINYC14-1030134905; Tue, 30 Oct 2001 13:49:05 -0500
Received: from puff.northgrum.com (puff.northgrum.com [157.127.103.139])
by sundown.northgrum.com (8.9.1a/8.9.1) with ESMTP id KAA05928
for <MarkW31415@aol.com>; Tue, 30 Oct 2001 10:48:49 -0800 (PST)
Received: from xcgca806.northgrum.com (xcgca806.northgrum.com [157.127.103.85])
by puff.northgrum.com (8.9.1a/8.9.1) with ESMTP id KAA16984
for <MarkW31415@aol.com>; Tue, 30 Oct 2001 10:48:46 -0800 (PST)
Received: by xcgca806.northgrum.com with Internet Mail Service (5.5.2650.21)
id <V86NTKJ7>; Tue, 30 Oct 2001 10:48:50 -0800

Message-ID:

<DA417236CC39D411A6EE00A0C927DB570134F666@xcgca026.ca.essd.north

From: "Evans-Beauchamp, Lincoln T."

<lincoln_evans-beauchamps@mail.northgrum.com>

To: "'MarkW31415@aol.com'" <MarkW31415@aol.com>

Subject: RE: preliminary amendment

Date: Tue, 30 Oct 2001 10:48:32 -0800

MIME-Version: 1.0

X-Mailer: Internet Mail Service (5.5.2650.21)

Content-Type: multipart/alternative;

boundary="----_=_NextPart_001_01C16173.79286BB0"

Subj: RE: Declaration / Power of Attorney
Date: 11/10/2001 6:05:26 PM Pacific Standard Time
From: tashlinc@yahoo.com
To: MarkW31415@aol.com
Sent from the Internet (Details)

Mark-

I am not signing the Declaration for reasons including, but not limited to:

- 1) The claim that Ed Zanelli or his father had anything to do with creating the IP is ridiculous, and that others who contributed to its invention were omitted.
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- 3) I have not been paid to spend my time and money to work on this patent with you.

-Lincoln Evans-Beauchamp

Subj:	Re: Declaration / Power of Attorney
Date:	11/12/2001 12:07:53 PM Pacific Standard Time
From:	MarkW31415
To:	tashlinc@yahoo.com
CC:	MarkW31415

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Regarding the first half of your first point, I was told that Ed and Jeremy were inventors, and that is what I have put down (in addition to you and Richard Zanelli). Regarding Richard Zanelli, I understood that he contributed the jury aspect of the invention. If this aspect had been independently developed by Inferscape prior to his suggestion of it, then please let me know as the "proposed" inventorship may then require revision. Please recognize something that flows from what we all know (if you don't mind my getting a little personal, but I think and hope I know you and you know me well enough): you are an extremely gifted and talented person, and what *you* view as true "inventorship" may not be what the Patent Office views as the same. I see this problem all the time: extremely smart people sometimes don't even view what they themselves do as "invention" - to them all is obvious. If Richard Zanelli suggested the jury aspect, he should be listed as an inventor if the jury aspect appears in the claims (and it does). That's the patent law. If he did not, or if Inferscape had already considered this as being part of the invention, then he likely should be removed. In any case, I'd have to consider all the facts you present and then make my best determination, in consultation with you and Inferscape. Let me know if I should point you to the section of the Manual of Patent Examining Procedure so that you can look this up yourself if you wish.

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Again on a personal note, lest you think that I am bending to any crony-ism, realize that I always try to be first and foremost ethical, and that I will name as inventors those who in my professional judgement should be so named, without exception. Not only is it an ethical duty, but also one that will, in the end, result in the strongest position with respect to validity of the patent.

Regarding your second and third points, that is out of my hands. You know I am sure that Inferscape is not in a financial position to pay you much for your efforts to help me. Note though that this is the first time, in almost ten years of practice, that I have encountered an inventor who has asked to be paid to read a patent application and sign the declaration. Nor do I think Inferscape has asked you to develop the IP further than you already have. So I am not sure you mean by what money Inferscape owes you. So with respect to the time and money, that is an issue you will have to take up with Inferscape and/or their corporate counsel. I apologize for appearing to "pass the buck", but I was not privy to all the internal arrangements that had been made.

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In other words, Lincoln, let's work through these issues and put this stuff behind us so that somewhat more interesting challenges can be addressed, hopefully for the good of everyone.

Thanks again for your help,

Mark

if these issues are solved, but not the money issues, will he sign?

Subj:RE: Declaration / Power of Attorney

Date:11/10/2001 6:05:26 PM Pacific Standard Time

From: tashlinc@yahoo.com (Natasha and Lincoln Evans-Beauchamp)

Reply-to: tashlinc@yahoo.com

To: MarkW31415@aol.com

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-Lincoln Evans-Beauchamp

Subj: RE: Declaration / Power of Attorney
Date: 11/17/2001 9:57:05 AM Pacific Standard Time
From: tashlinc@yahoo.com
To: MarkW31415@aol.com
Sent from the Internet (Details)

Mark,

I was snowed under with work for the past week, I have at least a bit of spare time now. I will have your answer soon.

Lincoln

-----Original Message-----

From: MarkW31415@aol.com [mailto:MarkW31415@aol.com]
Sent: Monday, November 12, 2001 12:08 PM
To: tashlinc@yahoo.com
Cc: MarkW31415@aol.com
Subject: Re: Declaration / Power of Attorney

Lincoln,

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Reply-to: tashlinc@yahoo.com

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-Lincoln Evans-Beauchamp

Subj: **Re: Declaration / Power of Attorney**
Date: 11/19/2001 10:08:54 PM Pacific Standard Time
From: MarkW31415
To: tashlinc@yahoo.com
CC: MarkW31415

Lincoln,

I forgot to mention.... upon reflection and much research by myself and Inferscape, they and I have come to the conclusion that, upon cancellation of the jury claims, the only remaining inventors are you and Jeremy. If continuations or continuations-in-part are ever filed, they may have different inventorships, of course, and Inferscape will have to try to obtain those inventors' signatures at or soon after the time of filing.

Please let me know what you think about our series of discussions/emails, given this information, or otherwise.

Thanks,

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Sent from the Internet

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Cc: MarkW31415@aol.com

Subject: Re: Declaration / Power of Attorney

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-Lincoln Evans-Beauchamp

Subj: RE: Declaration / Power of Attorney Date: 11/20/2001 12:10:05 AM Pacific Standard Time From: tashlinc@yahoo.com To: MarkW31415@aol.com <i>Sent from the Internet (Details)</i>
--

Mark,

I went through and compiled a list of who participated in which claims. Which claims are left now?

I ended up debating whether claims 1, 6, 7, 10, 12, 13, and 20 were developed during Data Digest's time.

I always thought that this patent would be about the additional accelerators/add-ons that made it all work under the various circumstances of its use, not the base case which Data Digest and others had done before.

For example, Claim 1:

DD had not implemented a Decision engine but it was clearly a part of their written plans.

DD did work with a DB, and even created a "Focus" DB. The focus DB was created via rules.

DD implented a "Arc" learning, but never state learning, although again it was a part of their written plans.

DD did implement probablity learning and an whole update process.

In Claim 6, 7, 10 and 12:

If you believe the above for claim 1...

DD of course worked with RDBs. (Static or Dynamic)

DD worked with AD Trees (which is a count of frequencies in the database and the data)

In Claim 13:

DD's "Focus" database and rules whole purpose was to simplify the data representation (hence lowering data noise).

In Claim 20:

DD, of course, dealt with evidence and its application/updates. (+ the comments of Claim 1).

In many of these cases, Jeremy can give you additional information.

Lincoln

-----Original Message-----

From: MarkW31415@aol.com [mailto:MarkW31415@aol.com]
Sent: Monday, November 19, 2001 10:09 PM
To: tashlinc@yahoo.com
Cc: MarkW31415@aol.com
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Also, as I have continuously mentioned, if you are represented by an attorney, please let me know so that I can direct future correspondence through them.

And on a final note, while I am willing to correspond with you to resolve all the issues you raise in good faith, I view that good faith requirement as a very important one, and not just "boilerplate". If this correspondence is or becomes a way to stall the prosecution of the patent, I will have to assume that it merely "window-dressing" for a refusal to sign, at which point I will proceed accordingly.

In other words, Lincoln, let's work through these issues and put this stuff behind us so that somewhat more interesting challenges can be addressed, hopefully for the good of everyone.

Thanks again for your help,

Mark

if these issues are solved, but not the money issues, will he sign?

Subj:RE: Declaration / Power of Attorney

Date:11/10/2001 6:05:26 PM Pacific Standard Time

From: tashlinc@yahoo.com (Natasha and Lincoln Evans-Beauchamp)

Reply-to: tashlinc@yahoo.com

To: MarkW31415@aol.com

Mark-

I am not signing the Declaration for reasons including, but not limited to:

- 1) The claim that Ed Zanelli or his father had anything to do with creating the IP is ridiculous, and that others who contributed to its invention were omitted.
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3) I have not been paid to spend my time and money to work on this patent with you.

-Lincoln Evans-Beauchamp

Subj: RE: Declarati n / Power of Attorney
Date: 11/30/2001 12:31:18 PM Pacific Standard Time
From: tashlinc@yahoo.com
To: MarkW31415@aol.com
Sent from the Internet (Details)

Mark,

You have not responded to my last email.

Which claims are still in effect?

Lincoln

-----Original Message-----

From: MarkW31415@aol.com [mailto:MarkW31415@aol.com]
Sent: Monday, November 19, 2001 10:09 PM
To: tashlinc@yahoo.com
Cc: MarkW31415@aol.com
Subject: Re: Declaration / Power of Attorney

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I forgot to mention.... upon reflection and much research by myself and Inferscape, they and I have come to the conclusion that, upon cancellation of the jury claims, the only remaining inventors are you and Jeremy. If continuations or continuations-in-part are ever filed, they may have different inventorships, of course, and Inferscape will have to try to obtain those inventors' signatures at or soon after the time of filing.

Please let me know what you think about our series of discussions/emails, given this information, or otherwise.

Thanks,

Mark Wieczorek

In a message dated 11/17/2001 9:57:05 AM Pacific Standard Time, tashlinc@yahoo.com writes:

Subj: RE: D clARATION / Power of Attorney
Date: 11/17/2001 9:57:05 AM Pacific Standard Time

From:tashlinc@yahoo.com
To:MarkW31415@aol.com
Sent from the Internet

Mark,

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Lincoln

-----Original Message-----

From: MarkW31415@aol.com [mailto:MarkW31415@aol.com]
Sent: Monday, November 12, 2001 12:08 PM
To: tashlinc@yahoo.com
Cc: MarkW31415@aol.com
Subject: Re: Declaration / Power of Attorney

Lincoln,

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Regarding the first half of your first point, I was told that Ed and Jeremy were inventors, and that is what I have put down (in addition to you and Richard Zanelli). Regarding Richard Zanelli, I understood that he contributed the jury aspect of the invention. If this aspect had been independently developed by Inferscape prior to his suggestion of it, then please let me know as the "proposed" inventorship may then require revision. Please recognize something that flows from what we all know (if you don't mind my getting a little personal, but I think and hope I know you and you know me well enough): you are an extremely gifted and talented person, and what *you* view as true "inventorship" may not be what the Patent Office views as the same. I see this problem all the time: extremely smart people sometimes don't even view what they themselves do as "invention" - to them all is obvious. If Richard Zanelli suggested the jury aspect, he should be listed as an inventor if the jury aspect appears in the claims (and it does). That's the patent law. If he did not, or if Inferscape had already considered this as being part of the

invention, then he likely should be removed. In any case, I'd have to consider all the facts you present and then make my best determination, in consultation with you and Inferscape. Let me know if I should point you to the section of the Manual of Patent Examining Procedure so that you can look this up yourself if you wish.

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Again on a personal note, lest you think that I am bending to any cronyism, realize that I always try to be first and foremost ethical, and that I will name as inventors those who in my professional judgement should be so named, without exception. Not only is it an ethical duty, but also one that will, in the end, result in the strongest position with respect to validity of the patent.

Regarding your second and third points, that is out of my hands. You know I am sure that Inferscape is not in a financial position to pay you much for your efforts to help me. Note though that this is the first time, in almost ten years of practice, that I have encountered an inventor who has asked to be paid to read a patent application and sign the declaration. Nor do I think Inferscape has asked you to develop the IP further than you already have. So I am not sure you mean by what money Inferscape owes you. So with respect to the time and money, that is an issue you will have to take up with Inferscape and/or their corporate counsel. I apologize for appearing to "pass the buck", but I was not privy to all the internal arrangements that had been made.

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To: MarkW31415@aol.com

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-Lincoln Evans-Beauchamp

Subj: **Re: Declaration / Power of Attorney**
Date: 12/2/2001 2:16:40 PM Pacific Standard Time
From: MarkW31415
To: tashlinc@yahoo.com
CC: MarkW31415

Lincoln,

The amendment I sent you was proposed, Lincoln, not actually filed. So I haven't actually filed anything yet to change the status of the claims. They are all on-file as originally filed.

Regarding your comments about the inventorship, they are very interesting. I'll have to think about them.

Thanks,

Mark

In a message dated 11/30/2001 12:31:18 PM Pacific Standard Time, tashlinc@yahoo.com writes:

Subj:**RE: Declaration / Power of Attorney**
Date:11/30/2001 12:31:18 PM Pacific Standard Time
From:tashlinc@yahoo.com
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Subj: **Re: Inferscape Declaration**
Date: 12/9/2001 3:58:48 PM Pacific Standard Time
From: MarkW31415
To: tashlinc@yahoo.com
CC: MarkW31415
File: **00122-003001 DECLARATION 12-9-01.pdf** (50573 bytes) DL Time (TCP/IP): < 1 minute

Lincoln,

I apologize for my late reply.

I have revised the Declaration and again ask that you sign the same and fax back to me at (866) 697-5889 or (253) 660-9226. Along with this Declaration I will file a Preliminary Amendment cancelling the claim to the jury application, claim 18. Under this Declaration, only you and Jeremy are named as inventors. After much discussion with Ed, I have come to the conclusion that the jury issue had been conceived of by Inferscape prior to Richard Zanelli's involvement. However, by cancelling this claim, you and Jeremy will be clearly the remaining inventors.

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Subj: **Inferscape Declaration**
Date: 12/2/2001 6:31:06 PM Pacific Standard Time
From: tashlinc@yahoo.com
To: MarkW31415@aol.com
Sent from the Internet

While I was going through the words of the

declaration, I started thinking about those items. Since it's been such a long time, I was unsure of the exact facts, but that is what I remembered. I'm working on jogging my memory. Of course, getting in touch with Jeremy would help, but I haven't had the time. So, yes, I would call it interesting.

Lincoln

Do You Yahoo!?

Buy the perfect holiday gifts at Yahoo! Shopping.

<http://shopping.yahoo.com>

Subj: Fwd: Inferscape Declaration
Date: 12/9/2001 4:23:59 PM Pacific Standard Time
From: MarkW31415
To: tashlinc@yahoo.com
CC: MarkW31415
File: **00122-003001 DECLARATION 12-9-01.pdf** (50573 bytes) DL Time (TCP/IP): < 1 minute

Lincoln,

One more thing: please let me know if other inventors should be listed with regard to inventorship of the remaining claims (the filed claims except for claim 18) and if so, who?

Thanks,

Mark

In a message dated 12/9/2001 3:58:48 PM Pacific Standard Time, MarkW31415 writes:

Subj:Re: Inferscape Declaration
Date:12/9/2001 3:58:48 PM Pacific Standard Time
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Mark D. Wieczorek, Ph.D., Esq.
PO B x 70072
San Diego, CA 92167
(562) 244-5671 phone : (866) 697-5889 fax
markw31415@aol.com email
Attorney-At-Law

December 17, 2001

ATTORNEY CLIENT PRIVILEGED
CONFIDENTIAL

VIA EXPRESS MAIL

VIA EMAIL

Lincoln T. Evans-Beauchamp
116 Colorado Avenue
Palo Alto, CA 94301

Re: US Patent Application
"DECISION ENGINE AND METHOD AND APPLICATIONS THEREOF"
Serial No. 09/908,984
Filed July 18, 2001
My Ref. 00122/003001

Dear Lincoln:

Please find enclosed a Declaration (attached) for you to sign and return to me, via mail at the above address (for the original) and via fax at the above fax number. This Declaration refers to the Preliminary Amendments filed December 13, 2001 and December 17, 2001, and I am providing copies to you of the same (attached).

We note that, in our email and telephone correspondences, you have raised several issues with regard to the Application and Declaration. In the course of this correspondence, we have addressed all of the issues you have raised. Nevertheless, I will summarize the issues here.

- You have raised an issue of the current inventorship.¹ In view of your comments, we have reviewed and investigated the current inventorship. Accordingly, we have filed the attached preliminary amendments and revised the inventorship.

¹ See your emails of 10/18/01, 10/22/01, 10/24/01, 10/30/01, 11/10/01, and 11/20/01.

Member, California State Bar - Registered Patent Attorney

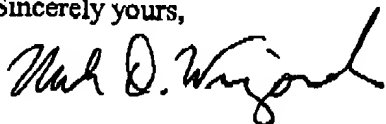
ATTORNEY-CLIENT PRIVILEGED - 2 -
CONFIDENTIAL

December 17, 2001

- You have raised an issue of inventorship of future-filed claims which may be supported by the current specification.² Under U.S. Patent Law, inventorship is determined by the claims as filed, and as modified by any preliminary amendments filed prior to execution of the declaration.³ Thus, the issues you raise in this regard do not affect the inventorship of the current application and claims, which is the subject of this letter and the attached Declaration.
- You have raised an issue of payment to you for work performed.⁴ While we believe this is a serious issue, we have investigated and concluded the payment in question has already been made. In regard to payment for work in reviewing this Application, we refer you to the attached Employee Confidentiality & Proprietary Information Agreement, signed by you on June 16, 2000, and in particular §6(c). Here, you assigned this invention to Inferscape and have also agreed to assist Inferscape "... in obtaining letter patent ... and shall execute all documents and do all other things necessary or proper thereto ...". Thus, this issue does not impact your execution of the Declaration.
- You have raised an issue of prior invention of certain aspects of the invention by your employer prior to Inferscape.⁵ This statement contradicts prior statements by you.⁶ Nevertheless, we have investigated this issue and have concluded that the inventorship of the Application and claims, as filed and amended by the Preliminary Amendments, is as noted in the attached Declaration. Thus, we have addressed this issue as well.

In summary, in the two months since our email, regular mail, and telephone correspondence has begun, you have had every opportunity to raise any questions you might have with respect to this Declaration. As it is clear we have addressed all issues you have raised, there should be no further impediment to your signing the Declaration. If I do not receive an executed Declaration from you in two weeks time, i.e., by December 31, 2001, the only conclusion can be that you are constructively refusing to execute the Declaration and join in the Application.

Sincerely yours,



Mark D. Wieczorek, Ph.D., Esq.

Encl.: Declaration already signed by Jeremy Link

Preliminary Amendments filed December 13 and 17, 2001

Employee Confidentiality / Proprietary Information Agreement (executed) dated June 16, 2000

cc w/ encl.: Ed Zanelli (by email)

² See your emails of 10/24/01, 10/26/01, and 10/30/01.

³ For more information, I refer you to the Manual of Patent Examining Procedure §201.06(c).

⁴ See your email of 11/10/01.

⁵ See your email of 11/20/01.

⁶ See, e.g., the statement made in your email of October 30, 2001. Further, this statement purports to disclose your breach of the Employee Confidentiality and Proprietary Information Agreement you signed on June 16, 2001, in particular and at least with regard to §§ 2(f) and 6(d).

**DECLARATION FOR UTILITY OR
DESIGN
PATENT APPLICATION
(37 CFR 1.63)**

☐

Declaration
Submitted
with Initial
Filing

OR

☒

Declaration
Submitted after Initial
Filing (surcharge
(37 CFR 1.16 (e))
required)

Attorney Dock Number

00122/003001

First Named Inventor

EVANS-BEAUCHAMP

COMPLETE IF KNOWN

Application Number

09 / 908,984

Filing Date

JULY 18, 2001

Group Art Unit

NOT YET ASSIGNED

Examiner Name

NOT YET ASSIGNED

As a below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

DECISION ENGINE AND METHOD AND APPLICATIONS THEREOF

(Title of the Invention)

the specification of which

☐

is attached hereto

OR

☒

was filed on (MM/DD/YYYY)

JULY 18, 2001

as United States Application Number or PCT International

Application Number

09/908,984

and was amended on (MM/DD/YYYY)

12/13/01

(if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached?	
				YES	NO
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐

Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto:

[Page 1 of 2]

PTO/SB/01 (03-01)

Approved for use through 10/31/2002. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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DECLARATION — Utility or Design Patent ApplicationDirect all correspondence to: ☐ Customer Number or Bar Code Label OR ☒ Correspondence address belowName **MARK D. WIECZOREK**Address **PO BOX 70072**City **SAN DIEGO**State **CA**ZIP **92167**Country **USA**Telephone **(619) 223-7210**Fax **(866) 697-5889**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that those statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

NAME OF SOLE OR FIRST INVENTOR: ☐ A petition has been filed for this unsigned inventorGiven Name (first and middle [if any]) **LINCOLN T.**Family Name or Surname **EVANS-BEAUCHAMP**

Inventor's Signature

Date

Residence: City **PALO ALTO**State **CA**Country **USA**Citizenship **USA**Mailing Address **116 COLORADO AVENUE**City **PALO ALTO**State **CA**ZIP **94301**Country **USA**NAME OF SECOND INVENTOR: ☐ A petition has been filed for this unsigned inventorGiven Name (first and middle [if any]) **JEREMY**Family Name or Surname **LINK**

Inventor's Signature

Date **12/14/2001**Residence: City **BELMONT**State **CA**Country **USA**Citizenship **USA**Mailing Address **935 HOLLY ROAD**City **BELMONT**State **CA**ZIP **94002**Country **USA**☐ Additional inventors are being named on the _____ supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto.

Subj: **Inferscape Inv ice**
Date: 12/23/2001 12:13:52 AM Pacific Standard Time
From: tashlinc@yahoo.com
To: ed.zanelli@inferscape.com
CC: MarkW31415@aol.com
File: **InferscapeInv ice.zip** (7408 bytes) DL Time (TCP/IP): < 1 minute
Sent from the Internet (Details)

Ed Zanelli,

Please find attached an invoice for my work with Inferscape for the period starting December 18, 2000 through the present.

You will also find attached a copy of an e-mail Dave Chariton, my agent, sent you regarding my rates and work estimate for my review of patent application (Serial Number 09/908984). This e-mail clearly shows that you were informed of what my rate in this matter. You did not dispute my terms. Mark Wieczorek, your patent attorney, has asked me to commence my review. Additionally, I have included, as part of the invoice, an estimate for the remaining work regarding the patent application should you choose to continue its pursuit. Please note the clear language regarding payment in the Employee Confidentiality and Proprietary Information Agreement that Inferscape and I signed on 16 June 2000, that Mark Wieczorek was so kind as to point out:

In the event any Invention/Idea is deemed by Employer to be patentable or otherwise registrable, Employee shall assist Employer (at its expense) in obtaining letters patent or other applicable registrations thereon and shall execute all documents and do all other things necessary or proper thereto (including testifying at Employer's expense) and to vest Employer, or any entity or person specified by Employer, with full and perfect title thereto or interest therein.

Be advised that the above documents will form the basis for my defense in the lawsuit you have brought against me as well as the body of the counter-suit I will file if this matter is not settled to my satisfaction by the end of the the month. You'll note my counter-suit would not meet the criteria for small-claims court.

Once I have been paid for my work, I will be happy to finish my review of the patent application. Until that time, there is no reason for me to continue my review of the patent application.

Yours cordially,

Lincoln Evans-Beauchamp

**LINCOLN EVANS-BEAUCHAMP TECHNICAL SERVICES
INVOICE**

For: Ed Zanelli Inferscape, Inc	Remit To: Lincoln Evans-Beauchamp 116 Colorado Ave. Palo Alto, CA 94301
--	--

TERMS: Due Upon Receipt**INVOICE DATE: 12/22/01**

DESCRIPTION**Technical/Sales/Marketing Support Services****AdFlight**

Request via 1/5/01 from E. Zanelli

Response via 1/6/01 reply to same

Effort: 2 hours

Cisco

Attend Mtg at Cisco on 12/21/00

Effort: 5 hours

Littera

Attend Mtg at Littera on 1/9/01

Effort: 5 hours

Rapt

Series of Emails with Rapt's Management between 1/4/01 to 1/9/01

Effort: 6 hours

Siebel

Monterey Documentation (Code and APIs, 4/30/01, 20 hours)

Monterey Server Architecture Plan (5 hours)

Monterey Product Verification Procedure (4/11/01, 10 hours)

Attend Sales Mtg (5 hours)

Phone Conversations with Doug Kubel (5/22/01, 2 hours)

VentureNova

Attend 2 Mtgs (8 hours)

Yalta

Attend 1 Mtg (1/19/01, 6 hours)

Continued Inferscape Tasking

Content Caching Design and Rapid Prototype (1/1/01 to 1/2/01, 20 hours)

Continuous Variables and Functional Relationships Design

(1/5/01 to 1/10/01, 20 hours)

Bayesian Technology Term Definitions (1/28/01, 4 hours)

Inferscape vs. Paramark Comparison (1/19/01, 10 hours)

Use of Reputation as Inferscape CTO

For Above Negotiations and Marketing on Web-Site

Period from 12/00 through 12/01

\$25,000 Yearly Fee

Additional \$25,000 Yearly Fee will apply for 12/01 through 12/02

Inferscape Patent Application

Rate set at \$150/hr per email of 10/22/01

Initial Reading and Comments (Oct 01, 10 hours)

Initial Claims Review (Around 10/30/01, 10 hours)

Detailed Review of Patent Body (Nov 01, 10 hours)

Inventorship Review (around 10/30/01 and 12/10/01, 5 hours)

Prior Art Communications (12/2/01 and 12/10/01, 5 hours)

Estimate of Future Patent Work Required

Review of Revised Patent Applications and Amendments (20 hours)

Continuing Inventorship and Claims review (10 hours)

Estimated Future Prior Art Communications (20 hours)

This Invoice's Total**Past Work:**

Technical Services:	128 hours @ \$80/hr =	\$10,240
Use of Name and Reputation:	Yearly Fee	\$25,000
Patent Review:	40 hours @ \$150/hr =	\$6,000
Subtotal:		\$41,240

Future Estimates:

Estimate of Remaining Patent Work	50 hours @ \$150/hr =	\$7,500
Continued Use of Name and Reputation:	Yearly Fee	\$25,000
Grand Total:		\$73,740



Please type a plus sign (+) inside this box → ☐

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Approved for use through 10/31/2002, OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

POWER OF ATTORNEY OR AUTHORIZATION OF AGENT

Application Number	09/908,984
Filing Date	July 18, 2001
First Named Inventor	Lincoln Evans-Beauchamp
Title	Decision Engine and ...
Group Art Unit	Not Yet Assigned
Examiner Name	Not Yet Assigned
Attorney Docket Number	00122/003001

I hereby appoint:

☐ Practitioners at Customer Number →

Place Customer Number Bar Code Label here

☒ Practitioner(s) named below:

Name	Registration Number
Mark D. Wiczorek	37,966

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please change the correspondence address for the above-identified application to:

☐ The above-mentioned Customer Number.

OR

☐ Practitioners at Customer Number →

Place Customer Number Bar Code Label here

OR

<input checked="" type="checkbox"/> Firm or Individual Name	Mark D. Wiczorek		
Address	PO Box 70072		
Address			
City	San Diego	State	CA Zip 92167
Country	USA		
Telephone	(562) 244-5871	Fax	(866) 697-5889

I am the:

☐ Applicant/Inventor.

☒ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

SIGNATURE of Applicant or Assignee of Record

Name	Edward Zanelli, President/CEO Interscape Inc., on behalf of Interscape Inc.
Signature	
Date	December 31, 2001

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required. See below.

☒ Total of 1 forms are submitted.

Burden Hour Statement: This form is estimated to take 3 minutes to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

PTO/SB/06 (02-00)

Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Inferscape, Inc.

Application No./Patent No.: 09/908,984

Filed/Issue Date: July 18, 2001

Entitled: Decision Engine and Method and Applications Thereof

Inferscape, Inc.

, a corporation

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.
The extent (by, percentage) of its ownership interest is _____ %

in the patent application/patent identified above by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☒ Copies of assignments or other documents in the chain of title are attached.

[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

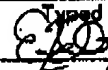
The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

December 31, 2001

Edward J. Zanelli

Date

Typed or printed name



Signature

President/CEO, Inferscape, Inc.

Title

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

**EMPLOYEE CONFIDENTIALITY AND PROPRIETARY INFORMATION
AGREEMENT**

This Agreement, dated as of 16 JUNE 2000, is between InferScape, Inc., a Delaware corporation ("Employer"), and LINCOLN EVANS- BEAUMONT ("Employee").

RECITALS

Employer has spent significant time, effort, and money to develop certain Proprietary Information (as defined below), which Employer considers vital to its business and goodwill.

The Proprietary Information will necessarily be communicated to or acquired by Employee in the course of his employment with Employer, and Employer wishes to hire Employee only if, in doing so, it can protect its Proprietary Information and goodwill.

Employer anticipates that certain Invention/Ideas (as defined below) will be conceived, developed, or reduced to practice by Employee during the course of his employment by Employer.

Employer wishes to hire Employee only if, in doing so, it can provide for the disclosure, assignment, and protection of these Invention/Ideas as provided in this Agreement.

ACCORDINGLY, the parties agree as follows:

1. Term of Agreement.

(a) **Basic Term.** Employee is beginning employment with Employer in the position of Engineer. This Agreement shall continue in full force and effect for the duration of Employee's employment by Employer (the "Period of Employment") and shall continue thereafter until terminated through a written instrument signed by both parties.

(b) Termination Obligations.

(i) Employee agrees that all property, including, without limitation, all equipment, tangible Proprietary Information (as defined below), documents, books, records, reports, notes, contracts, lists, computer disks (and other computer-generated files and data), and copies thereof, created on any medium and furnished to, obtained by, or prepared by Employee in the course of or incident to his employment, belongs to Employer and shall be returned promptly to Employer upon termination of the Period of Employment.

(ii) Employee's representations, warranties, and obligations contained in this



Agreement shall survive the termination of the Period of Employment, and Employee's representations and warranties shall also survive the expiration of this Agreement.

(iii) Following any termination of the Period of Employment, Employee shall fully cooperate with Employer in all matters relating to his continuing obligations under this Agreement.

2. Proprietary Information.

(a) Defined. "Proprietary Information" is all information and any idea in whatever form, tangible or intangible, pertaining in any manner to the business of Employer, or any Affiliate, or its employees, clients, consultants, or business associates, which was produced by any employee of Employer in the course of his or her employment or otherwise produced or acquired by or on behalf of Employer. All Proprietary Information not generally known outside of Employer's organization, and all Proprietary Information so known only through improper means, shall be deemed "Confidential Information." Without limiting the foregoing definition, Proprietary and Confidential Information shall include, but not be limited to: (i) formulas, teaching and development techniques, processes, trade secrets, computer programs, electronic codes, inventions, improvements, and research projects; (ii) information about costs, profits, markets, sales, and lists of customers or clients; (iii) business, marketing, and strategic plans; and (iv) employee personnel files and compensation information. Employee should consult any Employer procedures instituted to identify and protect certain types of Confidential Information, which are considered by Employer to be safeguards in addition to the protection provided by this Agreement. Nothing contained in those procedures or in this Agreement is intended to limit the effect of the other. For purposes of this Agreement, "Affiliate" shall mean any person or entity that directly or indirectly controls, is controlled by, or is under common control with Employer. However, the Employee shall not be so restricted where (i) the information is now or becomes public through no fault of the Employee, or (ii) the Employee already had the information in his possession from his own work prior to the date of this Agreement, or (iii) the Employee received the information from a third party on a non-confidential basis and not derived from the Employer, or (iv) the Employee receives permission in writing from the Employer to disclose the information.

(b) General Restrictions on Use. During the Period of Employment, Employee shall use Proprietary Information, and shall disclose Confidential Information, only for the benefit of Employer and as is necessary to carry out his responsibilities under this Agreement. Following termination, Employee shall neither directly or indirectly, use any Proprietary Information nor disclose any Confidential Information, except as expressly and specifically authorized in writing by Employer. The publication of any Proprietary Information through literature or speeches must be approved in advance in writing by Employer. WARNING: Improper use or disclosure of trade secrets can be a violation of state and federal law punishable by fines and imprisonment.

(c) **Location and Reproduction.** Employee shall maintain at his work station and/or any other place under his control only such Confidential Information as he has a current "need to know." Employee shall return to the appropriate person or location or otherwise properly dispose of Confidential Information once that need to know no longer exists. Employee shall not make copies of or otherwise reproduce Confidential Information unless there is a legitimate business need for reproduction.

(d) **Prior Actions and Knowledge.** Employee represents and warrants that from the time of his first contact with Employer, he has held in strict confidence all Confidential Information and has not disclosed any Confidential Information, directly or indirectly, to anyone outside of Employer, or used, copied, published, or summarized any Confidential Information, except to the extent otherwise permitted in this Agreement.

(e) **Third-Party Information.** Employee acknowledges that Employer has received and in the future will receive from third parties their confidential information subject to a duty on Employer's part to maintain the confidentiality of such information and to use it only for certain limited purposes. Employee agrees that he owes Employer and such third parties, during the Period of Employment and thereafter, a duty to hold all such confidential information in the strictest confidence and not to disclose or use it, except as necessary to perform his obligations hereunder and as is consistent with Employer's agreement with such third parties.

(f) **Conflicting Obligations.** Employee represents and warrants that his execution of this Agreement, his employment with Employer, and the performance of his proposed duties under this Agreement will not violate any obligations he may have to any former employer (or other person or entity), including any obligations with respect to proprietary or confidential information of any other person or entity. Employee agrees that he will not use for the benefit of, or disclose to, Employer any confidential information belonging to any former employer or other entity unless he has written permission from the employer or entity to do so (or unless Employer has been granted such permission).

3. Other Activity During Employment. Except upon the prior written consent of Employer, Employee (during the Period of Employment) shall not (i) accept any other employment; or (ii) engage, directly or indirectly, in any other business, commercial, or professional activity (whether or not pursued for pecuniary advantage) that is or may be competitive with Employer, that might create a conflict of interest with Employer, or that otherwise might interfere with the business of Employer, or any Affiliate.

4. Competitive Activity.

(a) **Acknowledgment.** Employee acknowledges and agrees that the pursuit of the activities forbidden by Section 4(b) would necessarily involve the use or disclosure of Confidential Information in breach of Section 2, but that proof of such a breach would be extremely difficult.

(b) **Prohibited Activity After Employment.** To forestall the above-described disclosure, use, and breach, Employee agrees that for a period of one (1) year after termination of the Period of Employment, he shall not, directly or indirectly, (i) divert or attempt to divert from Employer (or any Affiliate) any business of any kind in which it is engaged; (ii) employ or recommend for employment any person employed by Employer (or any Affiliate); or (iii) engage in any business activity that is or may be competitive with Employer (or any Affiliate) in any state where Employer conducts its business, unless Employee can prove that any action taken in contravention of this subsection was done without the use in any way of Confidential Information.

5 Interference with Business. In order to avoid disruption of Employer's business, Employee agrees that for a period of one (1) year after termination of the Period of Employment, he shall not, directly or indirectly, (i) solicit any customer of Employer (or any Affiliate) known to Employee during the Period of Employment to have been a customer; or (ii) solicit for employment any person employed by Employer (or any Affiliate).

6. Inventions and Ideas.

(a) **Defined; Statutory Notice.** The term "Invention/Idea" includes any and all ideas, processes, trademarks, service marks, inventions, technology, computer hardware or software, original works of authorship, designs, formulas, discoveries, patents, copyrights, products, and all improvements, know-how, rights, and claims related to the foregoing that are conceived, developed, or reduced to practice by Employee, alone or with others, during the Period of Employment, except to the extent that California Labor Code Section 2870 lawfully prohibits the assignment of rights in such intellectual property.

Employee acknowledges that he understands that this definition is limited by California Labor Code Section 2870, which provides:

"(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

(1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer; or

(2) Result from any work performed by the employee for the employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable."

Nothing in this Agreement is intended to expand the scope of protection provided Employee by Sections 2870 through 2872 of the California Labor Code.

(b) Disclosure. Employee shall maintain adequate and current written records on the development of all Invention/Ideas and shall disclose promptly to Employer all Invention/Ideas and relevant records, which records will remain the sole property of Employer. Employee agrees that all information and records pertaining to any idea, process, trademark, service mark, invention, technology, computer hardware or software, original work of authorship, design, formula, discovery, patent, copyright, product, and all improvements, know-how, rights, and claims related to the foregoing ("Intellectual Property"), that Employee does not believe to be an Invention/Idea, but that is conceived, developed, or reduced to practice by Employee (alone or with others) during the Period of Employment (or during the post-employment period set forth in Section 6(e) below), shall be disclosed promptly to Employer (such disclosure to be received in confidence). Employer shall examine such information to determine if in fact the Intellectual Property is an Invention/Idea subject to this Agreement.

(c) Assignment. Employee agrees to, and hereby does, assign to Employer his entire right, title, and interest (throughout the United States and in all foreign countries), free and clear of all liens and encumbrances, in and to each Invention/Idea, which shall be the sole property of Employer, whether or not patentable. In the event any Invention/Idea is deemed by Employer to be patentable or otherwise registrable, Employee shall assist Employer (at its expense) in obtaining letters patent or other applicable registrations thereon and shall execute all documents and do all other things necessary or proper thereto (including testifying at Employer's expense) and to vest Employer, or any entity or person specified by Employer, with full and perfect title thereto or interest therein. Employee shall also take any action necessary or advisable in connection with any continuations, renewals, or reissues thereof or in any related proceedings or litigation. Should Employer be unable to secure Employee's signature on any document necessary to apply for, prosecute, obtain, or enforce any patent, copyright, or other right or protection relating to any Invention/Idea, whether due to Employee's mental or physical incapacity or any other cause, Employee irrevocably designates and appoints Employer and each of its duly authorized officers and agents as Employee's agent and attorney-in-fact, to act for and in Employee's behalf and stead and to execute and file any such document, and to do all other lawfully permitted acts to further the prosecution, issuance, and enforcement of patents, copyrights, or other rights or protections with the same force and effect as if executed, delivered, and/or done by Employee.

(d) Exclusions. Employee represents that there are no Invention/Ideas that he desires to exclude from the operation of this Agreement. To the best of Employee's knowledge, there is no existing contract in conflict with this Agreement and there is no contract to

assign any Intellectual Property that is now in existence between Employee and any other person or entity.

(e) Post-Termination Period. Because of the difficulty of establishing when any Intellectual Property is first conceived or developed by Employee, or whether it results from access to Confidential Information or Employer's equipment, supplies, facilities, or data, Employee agrees that any Intellectual Property shall be presumed to be an Invention/Idea, if reduced to practice by Employee or with the aid of Employee within one (1) year after termination of the Period of Employment. Employee can rebut the above presumption if he proves that the Intellectual Property (i) was developed entirely on Employee's own time without using Employer's equipment, supplies, facilities, or trade secret information; (ii) was not conceived or reduced to practice during the Period of Employment, or, if conceived or reduced to practice during this period, did not, at the time of conception or reduction to practice, relate to Employer's business or actual or demonstrably anticipated research or development; and (iii) did not result from any work performed by Employee for Employer.

7. Grounds for Termination. Any material breach by Employee of this Agreement shall be grounds for terminating Employee's employment with Employer. Notwithstanding the foregoing, nothing in this Agreement is intended to alter the at-will employment status of Employee.

8. Notices. Any notice or other communication under this Agreement must be in writing and shall be effective upon delivery by hand or three (3) business days after deposit in the United States mail, postage prepaid, certified or registered, and addressed to Employer or to Employee at the corresponding address below. Employee shall be obligated to notify Employer in writing of any change in his address. Notice of change of address shall be effective only when done in accordance with this Section.

Employer's Notice Address:

ATTN: C.E.O.
InferScape, Inc.

Employee's Notice Address:

9. **Action by Employer.** All actions required or permitted to be taken under this Agreement by Employer, including, without limitation, exercise of discretion, consents, waivers, and amendments to this Agreement, shall be made and authorized only by the President or by his or her representative specifically authorized in writing to fulfill these obligations under this Agreement.

10. **Integration.** This Agreement sets forth the parties' mutual rights and obligations with respect to proprietary information, prohibited competition, and intellectual property. It is intended to be the final, complete, and exclusive statement of the terms of the parties' agreements regarding these subjects. This Agreement supersedes all other prior and contemporaneous agreements and statements, whether written or oral, express or implied, on these subjects, and it may not be contradicted by evidence of any prior or contemporaneous statements or agreements. To the extent that the practices, policies, or procedures of Employer, now or in the future, apply to Employee and are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control.

11. **Amendments; Waivers.** This Agreement may not be amended except by an instrument in writing, signed by each of the parties. No failure to exercise and no delay in exercising any right, remedy, or power under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, or power under this Agreement preclude any other or further exercise thereof, or the exercise of any other right, remedy, or power provided herein or by law or in equity.

12. **Assignment; Successors and Assigns.** Employee agrees that he will not assign, sell, transfer, delegate, or otherwise dispose of, whether voluntarily or involuntarily, or by operation of law, any rights or obligations under this Agreement. Any such purported assignment, transfer, or delegation shall be null and void. Nothing in this Agreement shall prevent the consolidation of Employer with, or its merger into, any other entity, or the sale by Employer of all or substantially all of its assets, or the otherwise lawful assignment by Employer of any rights or obligations under this Agreement. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, legal representatives, successors, and permitted assigns, and shall not benefit any person or entity other than those specifically enumerated in this Agreement.

13. **Severability.** If any provision of this Agreement, or its application to any person, place, or circumstance, is held by an arbitrator or a court of competent jurisdiction to be invalid, unenforceable, or void, such provision shall be enforced to the greatest extent permitted by law, and the remainder of this Agreement and such provision as applied to other persons, places, and circumstances shall remain in full force and effect.

14. **Attorneys' Fees.** In any legal action or other proceeding brought to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

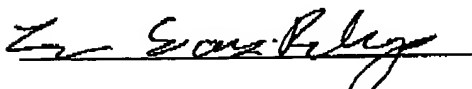
15. **Injunctive Relief.** If Employee breaches or threatens to breach any provision of this Agreement, the parties acknowledge and agree that the damage or imminent damage to Employer's business or its goodwill would be irreparable and extremely difficult to estimate, making any remedy at law or in damages inadequate. Accordingly, Employer shall be entitled to injunctive relief against Employee in the event of any breach or threatened breach of such provisions by Employee, in addition to any other relief (including damages) available to Employer under this Agreement or under law.


16. **Governing Law.** This Agreement shall be governed by and construed in accordance with the law of the State of California.

17. **Interpretation.** This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. By way of example and not in limitation, this Agreement shall not be construed in favor of the party receiving a benefit nor against the party responsible for any particular language in this Agreement. Captions are used for reference purposes only and should be ignored in the interpretation of the Agreement.

18. **Employee Acknowledgment.** Employee acknowledges that he has had the opportunity to consult legal counsel in regard to this Agreement, that he has read and understands this Agreement, that he is fully aware of its legal effect, and that he has entered into it freely and voluntarily and based on his own judgment and not on any representations or promises other than those contained in this Agreement. Employee specifically acknowledges that he has received notice of his statutory rights under Section 2870 of the California Labor Code, as set forth in the above Section 6 on Inventions and Ideas.

The parties have duly executed this Agreement as of the date first written above.


Name: LINCOLN EVANS-BEAULCHAMP


Inferscape, Inc.
By: SHUDDER A. M.
Its: CFO

17 July 2000

Lincoln Evans-Beauchamp intends to transfer to Inferscape his intellectual property as part of the founder's stock purchase program. This intellectual property includes the following applications/systems and the included technologies:

- An Anti-Submarine Warfare Advisor utilizing Bayesian Decision Networks, Intelligent Decision Systems, Game Theory and Risk Analysis Technologies.
- An Tactical and Strategic Sailing Advisor utilizing Bayesian Decision Networks, Intelligent Decision Systems, Bayesian Data Mining, and Game Theory Technologies.



Lincoln Evans-Beauchamp, CTO
Inferscape



Ed Zanelli, CEO
Inferscape

ASSIGNMENT OF APPLICATION

Docket Number (Optional)
00122/003001

Whereas, I/We, Jeremy Link of Belmont, CA, hereafter referred to as applicant, have invented certain new and useful improvements in Decision Engine and Method and Applications Thereof

☒ for which an application for a United States Patent was filed on July 18, 2001

Application Number 09 / 909,984

☐ for which an application for a United States Patent was executed on _____, and

Whereas, Inferscape, Inc. of San Mateo, CA herein referred to "assignee" whose mailing address is 25 McAker Court #112, San Mateo, CA 94403 is desirous of acquiring the entire right, title and interest in the same;

Now, therefore, in consideration of the sum of one dollars (\$ 1.00), the receipt whereof is acknowledged, and other good and valuable consideration, I/We, the applicant(s), by these presents do sell, assign and transfer unto said assignee the full and exclusive right to the said invention in the United States and the entire right, title and interest in and to any and all Patents which may be granted therefor in the United States, I/We hereby authorize and request the Commissioner of Patent and Trademarks to issue said United States Patent to said assignee, of the entire right, title, and interest in and to the same for his sole use and behoof; and for the use and behoof of his legal representatives, to the full end of the term for which said Patent may be granted, as fully and entirely as the same would have been held by me had this assignment and sale not been made.

Executed this 31st day of December, 20 01
at Belmont, CA

State of _____ SS:

County of _____

Before me personally appeared said _____

and acknowledged the foregoing instrument to be his free act and deed this _____

day of _____, 20 _____.

Seal

(Notary Public)

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required. See below.

☒ Total of _____ forms are submitted.

This form offers a sample or suggested format for an assignment document. This sample form is not an OMB officially approved form.